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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/645,402 | 08/21/2003 | Vijay B. Alone | JP920020130US1 | 7744 |
| 25299 | 7590 | 06/27/2005 | EXAMINER | |
| IBM CORPORATION PO BOX 12195 DEPT YXSA, BLDG 002 RESEARCH TRIANGLE PARK, NC 27709 | | | NGUYEN, DAVID Q | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2681 | |

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/645,402

Applicant(s)

ALONE ET AL.

Examiner

David Q. Nguyen

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-5,19-21 and 28-30, drawn to a connection confirmation unit which confirms the connection by attempting an actual connection to the hidden access point after accessing the information from said non-volatile storage device. classified in class 455, subclass 552.1.
 - II. Claims 6-8 and 31, drawn to a radio control unit which powers off a transmitting and receiving radio used to make the wireless LAN connection while the power of a system is turned on, only when said determination unit determines that a connection to any of the networks having their information stored in said non-volatile storage device is not possible, classified in class 455, subclass 426.1.
 - III. Claims 9-10, drawn to a connection candidate list storing unit which stores a connection candidate list which includes an information of a network connection, classified in class 455, subclass 41.2.
 - IV. Claims 11-13, drawn to an attitude fluctuation sensing unit which senses an attitude fluctuation of said apparatus; and radio control unit which powers on a transmitting and receiving radio which makes the wireless communications on the basis of the attitude fluctuation of said apparatus sensed by said attitude fluctuation sensing unit, classified in class 370, subclass 245.

- V. Claims 14-16 and 24-25, drawn to a scan executing unit which executes a scan for the access point on the basis of the attitude fluctuation of said apparatus sensed by said attitude fluctuation sensing unit, classified in class 455, subclass 432.1.
- VI. Claims 17-18, drawn to comparing the network name acquired by the scan and the hidden access point acquired from the connection candidate list in an order of priority for the wireless network, classified in class 455, subclass 450.
- VII. Claims 22-23 and 32, drawn to stopping a wireless transmitting and receiving radio when an access point for connection to the wireless network does not exist, classified in class 370, subclass 268.
- VIII. Claims 26-27 and 33, drawn to execute the connection to the access point with the network name of the wireless network acquired by the scan, when the wireless network with the network name acquired by the scan has a higher priority by said comparison in the order of priority, classified in class 455, subclass 435.3.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I, II, III, IV, V, VII and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case each above invention is required a different search in a different classification.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. A telephone call was made to Scott W Reid on 06/15/05 to request an oral election to the above restriction requirement, but did not result in an election being made.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH H. FEILD can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DN

David Nguyen


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER